ROLE OF INDIA FOR ENFORCEMENT OF INTERNATIONAL HUMAN RIGHTS

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ABSTRACT

Indian courts are optimistic about applying international law in domestic courts, and their technique is always evolving. India has made a strong argument for its commitment to the creation and application of international law. India, on the other hand, has played no part in the development of some of the most basic international legal notions. In the disciplines of human rights, environmental law, arbitration, and commercial law, India has made significant contributions to international law. India, on the other hand, is wary of drafting treaties that restrict its sovereignty and openly aim to give home courts legal enforcement powers. International law provides the legal duties of nations in their relations with one another and their treatment of others," according to the United Nations. The study employed a doctrinal method of study to evaluate the role of India in enforcing international instruments of Human rights.

Keywords: National Human Rights, International Human Rights, International enforcement of Human rights

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1.0 INTRODUCTION:

The Preamble of the Indian Constitution reflects the inspiring ideals with the specific mention of "dignity of the individual". The Constitution of independent India came into force on 26th January. The impact of the Universal Declaration of Human Rights on drafting part III of the Constitution is apparent. India has acceded to the Universal Declaration of Human Rights as well as to the subsequent International Covenants of Economic, Social and Cultural rights and Civil & Political Rights adopted by the General Assembly of the United Nations. Fundamental Rights enshrined in Part III of the Constitution have emerged from the doctrine of natural rights. Fundamental Rights are the modern name for what have been traditionally known as Natural Rights. The Natural Rights transformed into fundamental rights operate as a constitutional limitation or a restriction on the powers of the organs set up by the Constitution or the State action. Judicial Review, Justice, ability or Enforcement became an inseparable concomitant of fundamental rights. As no right of freedom can be absolute, limitations have been imposed to each fundamental right in the interest of securing social justice. Enforcement of fundamental rights can even be suspended or prevented in emergency. Directive Principles enshrined in Part IV of the Constitution epitomise the ideals, aspirations the sentiments, the precepts and the goals of our entire freedom movement. The wisdom of the forefathers of the Constitution was justified in incorporating non-justiciable human rights in the concrete shape of the directive principles.

1.1 EVOLUTION OF HUMAN RIGHTS IN INDIA:

Evolution of Human Rights in India can be traced back to the fifteenth century B.C from Vedas. It is to be noticed that India embedded the concept of human rights from the time immemorial and the same rights were discovered by the west later. The wide range of stories and judicial pronouncement showed the concept of human rights and in Vedic period human rights were deemed to be “equality”.

1.1.1 Ancient Period

There are several Vedas which throw light on human rights. The famous Vedic quote “let everyone be happy, let everyone free from all ills” which expected the king not only to protect the lives of the people also to promote human wellbeing and prosperity. Kautilya had pleaded with the king to protect the rights of the people and also the dignity of the people. Arthasastra

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not only dealt with civil and political rights formulated by Manu but also included several economic rights for the people.Buddhism and Jainism protected the moral order and dignity of the people. After Buddha, Ashoka policy of non-violence made him protect the Human rights which include equality, fraternity, happiness and liberty of the individuals. People enjoyed many rights in the Hindu Empire. Ashoka secured freedom from hunger, disease, deprivation and prohibit torture and inhuman treatment of the prisoners.

1.1.2 Mediaeval Period

Medieval India was popularly known as the Muslim period or Muslim era. During the Pre-Mughal period, Hindus were forced to adopt their culture and religious practices. But, in later Muslim period it is considerably changed and modified to its form. During the rule of Akbar the great, he brought many changes towards the Hindus to practice their own religion. It can be clearly seen that "Human Right policy of universal reconciliation and tolerance" was followed by the ruler and the same was followed by his son Jahangir. The right of an accused to be released on bail existed during the Mughal period, similarly, the accused can be acquitted on the benefit of the doubt. Bhakti movement emerged in India, it regenerated truth, righteousness, justice and morality.

1.1.3 British Period

The modern developments of human rights in India emerged during the British period. The torture made by the British against Indians induced the Indians to protest against the rule of Britishers and encouraged the freedom fighters for the freedom movement to safeguard their liberties and fundamental rights and freedoms. The national movement emphasised by Gandhiji not only to free India from foreign rule but also to abolish the practice of Sati, untouchability, Harijan's rights etc. The movement is for the fundamental freedom and civil and political rights for the people. The objective of the Indian national congress, in the beginning, is to secure liberties, human rights of non-discrimination on grounds of race, colour etc. Gandhiji launched Non-violent struggle to emphasise self-governance and fundamental laws for themselves. Jyotiba Phule founded "satyashodhak samaj" to ensure equality among the oppressed class and promote the education of girls. Likewise, Arya samaj and Ramakrishna mission in 1899 were struggling for promoting education for all the sections of the society. Human rights and basic fundamental freedoms are the only things for the Indians to fight against the Britishers. The proclamation of Queen Victoria on 1st November 1858 declared the secular nature of the state

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and non-interference in religious practices. In the Constitution of India Bill 1895, the Indian national congress demanded to insert basic human rights for the people including freedom of speech and expression, right to equality, right to free education etc.

In 1927, a committee was set up under the chairmanship of Pt. Motilal Nehru. The committee suggested 19 fundamental rights be incorporated in the constitution of India. The Constitution of India 1950 incorporated 10 fundamental rights suggested under the committee. In 1946 Jawaharlal Nehru passed the objective resolution which contained most of the human rights and it guaranteed safeguard for minorities, backward classes, tribal people, oppressed and other classes in the country. In 1945, Sapru committee asked for the written codes for fundamental rights and after several debates, the fundamental rights and directive principles of state policy were incorporated in the Indian constitution.

India got its independence on August 15, 1947, but it was incomplete and on 10th December 1948, when the Constitution of India was in making the Universal Declaration of Human Rights was adopted. [1]

1.2 HUMAN RIGHTS AND ROLE OF NATIONAL HUMAN RIGHTS COMMISSION

The National Human Rights Commission is an expression of India's concern for the protection and promotion of human rights. It is a unique expert body, which is created under the Protection of Human Rights Act, 1993, for examining and investigating the complaints relating to violations of human rights, as also the negligence on the part of any public servant in preventing such violation.

In India, the National Human Rights Commission can play a vital role in influencing the policy making and sometimes even policy initiations, facilitating protection and promotion of human rights, such institutions provide an excellent mechanism for building public opinion and strong alliances and partnerships with non-governmental organisations and other human rights activists for influencing the national agenda on human rights. Apart from the resolution of disputes brought to such institutions, voice articulated, studies conducted and research produced by these institutions carry great credibility and respectability and thus, can be important source material in the quest of securing and protecting human rights. There is a need

[1] CHIRANJIVI. J. NIRMAL, "HUMAN RIGHTS IN INDIA HISTORICAL,SOCIAL & POLITICAL PERSPECTIVES'',OXFORD PUBLICATIONS, [2000] 1-5.

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to evolve more meaningful interaction and networking among these institutions. It is to be noted that the wide comprehension of human rights indicates that the judiciary alone is not equipped to perform the entire task of promotion and protection of human rights. There is a need of a similar institution to complement the judiciary by monitoring the functioning of the institutions of the State, which most often are responsible for violation and neglect in prevention of violation of human rights. The National Human Rights Commission is an institution acts as a catalyst to improve the quality of governance, on which depends the state of human rights in a country.[2]

1.3 HUMAN RIGHTS AND CONSTITUTION OF INDIA:

The Constitution of the Republic of India which came into force on 26th January 1950 with 395 Articles & 8 Schedules is one of the most elaborate fundamental laws ever adopted. The Preamble to the Constitution declares India to be a Sovereign, Socialist, Secular and Democratic Republic. The term 'democratic' denotes that the Government gets its authority from the will of the people. It gives a feeling that they all are equal "irrespective of the race, religion, language, sex & culture.'' The preamble to the Constitution pledges justice, social, economic and political, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and fraternity assuring the dignity of the individual and the unity and integrity of the nation to ail its citizens.

1.4 IMPORTANT FEATURES OF PROTECTION OF HUMAN RIGHTS ACT

The Protection of Human Rights Act, 1993 defines the term 'human rights' to mean 'rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution, or embodied in the International Covenants and enforceable by the Courts in India. In this definition 'human rights' have been given a wider ambit than those embodied in the Indian Constitution so as to include the rights listed in International Covenants. The enactment of PHRA has empowered the National Human Rights Commission. Commission which functions from New Delhi with jurisdiction all over India. The powers of the Commission are intended to be so wide as to overseer the functioning of the organs of the State, not with a view to interfering with their constitutionally assigned functions, but to highlighting before them the pressing problems endangering human rights in order that the constitution, which the people

[2] SINGH SEHGAL.B.P. 'HUMAN RIGHTS IN INDIA: PROBLEMS & PERSPECTIVES ' DEEP & DEEP PUBLICATIONS, 1995. [ed.3th p.548].

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of this country have given unto themselves to safeguard a true democratic system of administration, becomes a meaningful instrument of justice and equity and an invigorating force to carry the nation forward. The Commission completes 13 years of its existence on October, 12, 2006. Over the past 13 years, the Commission has endeavoured to give a positive meaning and content to the objectives set out in the PHRA, 1993 for better protection of human rights. The Commission has worked vigorously and effectively all these years to create awareness and sensitising public authorities for promoting and protecting human rights in the country. Apart from redressed of individual complaints and suo-moto actions of human rights violations, the NHRC undertakes various programmes to address societal issues, systematic reforms of police setup, prisons and to spread in promoting a culture of human rights in a country which has varied kinds of problems stemming from its size and population. The PHRA also embodies provisions with regard to the establishment of State Human Rights Commissions all over India to supplement the efforts of NHRC.

Besides, Human Rights Courts are also being set up in the Districts to deal exclusively with the proven cases of human rights violations.

2.0 NATIONAL HUMAN RIGHTS COMMISSION

The establishment of the National Human Rights Commission was the result of criticism against India, both at National and International level, regarding human rights situation in Kashmir and Punjab. Several India watchers thought at that time that, the creation of the NHRC was a tactical move on the part of the Government of India to take some of the pressure off, so far as the alleged violation of human rights in Kashmir and Punjab were concerned. Due to this background that the Commission needs is the credibility and acceptance, which will ultimately come from the work it does, it stand on human rights issues and the fate of its recommendations. Its advocacy for abolition of TADA[3], its stand on custodial deaths, rights of women and children, and the police atrocities have all led to an atmosphere where the NHRC has made its presence felt. Its recommendations have generally been accepted by the Governments on various matters.

Despite all this, and taking into account the vastness and variety of human rights issues in India, the Commission faces a gigantic task. The question is whether the arrangements envisaged

[3] Terrorist and Disruptive Activities (Prevention) Act. 1987.

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under the National Human Rights Commission Act, 1993 are sufficient to meet the challenge? It may be mentioned that the Act is a very comprehensive piece of legislation which, apart from the Commission, it also envisages State Human Rights Commissions at State level and Human Rights Courts at District level for 'better protection of human rights'. Therefore, the Commission happens to be the only institution operational under the Act. An attempt here is made to analyse and assess the statutory framework of NHRC from the point of view of credibility and acceptance. Because ultimately these will determine whether it can face the challenge of creating a human rights culture in this country. Credibility or acceptance of any institution created by the State such as a National Human Rights Commission depends at least upon three factors i.e. autonomy and transparency.

Composition of the Commission:

The Commission shall consist of

a) A Chairperson who has been a Chief Justice of the Supreme Court;
b) One Member who is, or has been, a Judge of the Supreme Court;
c) One Member who is, or has been, the Chief Justice of a High Court;
d) Two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.[4]

2.1 TERMS AND REMOVAL OF THE CHAIRPERSON AND OTHER MEMBERS OF THE COMMISSION:

The terms of the office of the Chairperson and other nominated Members is five years, from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier. A member of the Commission is eligible for reappointment provided he had not attained the age of seventy years, but the Chairperson is not eligible for a second term. The Chairperson or any Member of the Commission can be removed from his office only by Order of the President of India on the ground of proved misbehaviour or incapacity after an inquiry by the Supreme Court, on reference being made to it by the President. Further, in any one of the following cases, the President may by order remove the Chairperson or any other Member who i) is adjudged an insolvent; or ii) engages during his term of office in any paid employment outside the duties of his office; or iii) is unfit to continue in office by reason of

[4] United Nations Commission on '*Human Right's*, 48* Sers; UN DocE/ CN.4/1992/43 (1992). Sec. 3(2).

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infirmity of mind or body; or iv) is of unsound mind and stands so declared by a competent court; or v) is convicted and sentenced to imprisonment for an offence which inquiry the opinion of the President involves moral turpitude.

2.2 FUNCTIONS AND POWERS OF THE COMMISSION:

The Commission has been envisaged as an activist body for creating a human rights culture in the country. The effectiveness and impact of the Commission will depend upon the range of functions, it is required to perform. The powers conferred upon it to accomplish the job and the ultimate fate of its recommendations. Apart from its functions of adjudicating complaints regarding human rights violations, it acts as an overseer of the human rights situation in the country with the help of its suo-motu initiations. The functions that are to be discharged by the Commission are:

- Inquire, suo-motu, or on a petition presented to it by a victim or any person on his behalf, [or on a direction or order of any court] into complaint of
- Violation of human rights or abetment thereof; or ii) negligence in the prevention of such violation by a public servant;
- intervene in any proceeding involving any allegation of violation of human rights pending before a Court with the approval of such Court; notwithstanding anything contained in any other law for the time being in force, any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates thereof and make recommendations thereon to the Government.
- Review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;
- Review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
- Undertake and promote research in the field of human rights;
- Spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;

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- Encourage the efforts of non-governmental organizations and institutions working in the field of human rights;

Such other functions as it may consider necessary for the promotion of human rights.

According to Section 29 all the above provisions except clause (f), shall be applicable to the State Human Rights Commissions. The Commission has been empowered to hear and inquire all the complaints regarding the violations of human rights. The Commission proceeds either suo-motu or on the receipt of a complaints. The procedure adopted in both the cases is the same. However, the complaints of violations of human rights by Members of the Armed Forces are kept outside the purview of inquiry and investigation.

It is also incumbent upon the Commission to submit an Annual Report and also Special Reports to the Central Government and State Governments concerned. The said Governments shall have to present the Reports, along with a memorandum of action or acceptance, before each House of Parliament and also before the House of the State Legislature.

The main function of the National Human Rights Institutions is to promote and protect human rights in its widest perspective. It is important to note that the Paris Principles[5] lay down the minimum standards to be observed in setting up any National Human Rights Institutions, even though no single model is prescribed. Variations in the mechanism consistent with the national ethos are permissible so long as the essence of Paris Principles is observed. The National Institutions must be strong and effective which can be contribute substantially to the realization of human rights and fundamental freedoms. It is no longer doubted that effective enjoyment of human rights requires the existence of national infrastructures for their promotion and protection. The Paris Principles affirm that National Institutions are to be vested with competence to promote and protect human rights and given as broad a mandate as possible which must be set forth clearly in a Constitutional and Legislative text.

The Paris Principles contain guidelines for the composition of National Human Rights Institutions, dealing with the mode of appointment of its members ensuring pluralism

[5] Paris Principles are the conclusions reached in first International Workshop on National Institutions in 1991 at Paris, which were endorsed by the commission on Human Rights 1992 and by the General Assembly in its Resolution No. 48/134 of20-12-1993. These are known as "Principles relating to the status of National Institutions" Recently, at the 10* Workshop of Regional Co-operation for promotion and protection of human rights in the Asia-Pacific Region at Lebanon on 4-6, March, 2002, suggestions were made for spreading awareness of Paris Principles; incorporation of Paris Principles into the mandate of Institutions.

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guarantees for operational independence, including the nature of its responsibilities and methods of operation. The Vienna Declaration and Programme of Action adopted by the 1993 World Conference of Human Rights confirmed the principles and encourage the establishment and strengthening of National Institutions having regard to the Principles, in addition to Office of United Nations High Commissioner for Human Rights. The Paris Principles relating to the status of National Institutions are an important step in the evolutionary process. Governments continue to avoid strict adherence to Paris Principles apprehending interference by an autonomous body. For this reason, the nature of constitution of the National Human Rights Institution and the manner in which it functions determines its efficacy. It is relevant to mention here that ever since the constitution of the National Human Rights Commission, in accordance with the Paris Principles, the Supreme Court of India has been facilitated considerably in the performance of its task of the protection of human rights. The NHRC has been constituted for the better protection of human rights. The complementarities developed between the Supreme Court and the NHRC has been enabled the better protection of human rights and promotion of human rights culture in the country.

The NHRC has been discharging its role as a catalyst to improve the quality of governance, which helps in greater respect for human rights. In short, the NHRC of India is seen as institution, which has proved that, if properly constituted, such an institution is greatly efficacious in enabling the State to discharge its obligation under the United Nation Charter and the National Democratic Constitution of protecting human rights.

2.3 POWERS OF INVESTIGATION:

The Commission has enormous powers of investigation. The Commission either proceeds to inquire into the matter itself or it may hand over the case for further investigation for which it maintains its own investigative machinery, headed by person not below the rank of Director or General of Police, who is appointed by the Commission itself.[6] Thus, the Commission does not depend upon the State for investigation. The investigation machinery works under the control and direction of the Commission. While inquiring into the complaints of violations of human rights, the Commission may Call for information or report from the Central Government or any State Government or any other authority or organisation subordinate thereto within such time

[6] SECTION. 13(4) of PHRA

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as may be specified by it: provided that, if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own;

If, on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complaint accordingly.

A complaint may be dismissed inlimine. However, once a complaint admitted for hearing, the Commission may either set down the matter for inquiry or investigation, as it may deem proper. To ensure fairness, the regulations require the Commission to afford, in its discretion, a personal hearing to the petitioner or to any other person if the Commission considers necessary for the appropriate disposal of the matter before it. Witnesses, who appear before it, may also be cross-examined and an opportunity of reasonable hearing is given to a person who might be adversely affected by the findings of the Commission. The Protection of Human Rights Act and the regulations made there-under, thus ensure openness as well as fairness of the proceedings. The Commission is thus one of the most powerful Commissions of inquiry.

2.4 LIMITATIONS ON THE JURISDICTION OF THE COMMISSION:

Sec. 19 deals with the special provisions when the members of the Armed Forces violate the human rights. As regards the complaints of violation of human rights by the armed forces of the Union, the Commission is not empowered to make an inquiry or investigation in the matter directly. Instead, it may seek a report from the Central Government on its own motion or on the complaint filed by a party. It may then make its recommendations to the Central Government. The Government is required to inform the Commission ordinarily within three months, of the action taken on its recommendations. There may be some justification to follow a different procedure and to bar an inquiry or investigation against the armed forces on the ground of national security, when these forces are engaged in defending the country against foreign aggression. But, there is no justification to take them out of the normal jurisdiction of the Commission when these forces are deployed to do policing which is not unusual in this country.

The Act does not specifically confer upon the Commission, a jurisdiction to inquire or investigate human rights violations by organised groups in the society. The focus of the Act is violation of the human rights by the public servants. Certain organised groups such as terrorists, religious fundamentalists, caste and communal groups are now perceived as the greatest threat

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to human rights. So far as the State or its functionary is concerned, they work under various types of pressures and check.

3.0 STATE HUMAN RIGHTS COMMISSION:

According to the stipulation of the Protection of Human Rights Act, 1993, there should be a State Human Rights Commission in every State. The State Government shall specify the place for headquarters of the State Commission. The Chairperson shall hold office for a term of five years, or until he attains the age of 70 years, whichever is earlier.

The State Commission shall consists of

a) A Chairperson who has been a Chief Justice of a High Court;

b) One Member who is, or has been, a Judge of a High Court or District Judge in the State with a minimum of seven years' experience as District Judge;

c) one Member to be appointed from amongst persons having knowledge of or practical experience in matters relating to human rights. The Chairperson and Members shall be appointed by the Governor by Warrant under his hand and seal, provided that every appointment shall be made after obtaining the recommendation of a Committee consisting of:

a) The Chief Minister as the Chairperson;

b) Speaker of the Legislative Assembly as Member

c) Minister in charge of the Department of Home in that State as Member

d) Leader of the Opposition in the Legislative Assembly as Member.

The Chairperson is appointed for a term of five years or till he attain the age of seventy years, whichever is earlier. The other members are appointed for five years and they are eligible for reappointment for another term of five years. But no member shall hold office after attaining the age of seventy years. The Chairperson or any other member of the State Commission may be removed from his office in the same manner and on the same ground as in the case of the Chairperson and Members of National Human Rights Commission.

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The State Commission shall submit an Annual Report to the State Government, which shall cause the report to be laid before the House of State Legislature along with a memorandum of action taken or proposed to be taken on the recommendations of the State Commission and the reasons for non-acceptance of the recommendations.

It is to be noted that the powers and functions of the State Commissions and the procedure of inquiry and investigation are similar to that of National Human Rights Commission. Though, the Protection of Human Rights Act provides for the subject matters to be dealt with exclusively by the National or State Commissions, in practice these divisions are rarely adhered to. In effect, the complainant is free to seek redress from the National or State Commission irrespective of the subject matter of his complaint. The only restriction is that once either of the Commission takes cognizance of a case, the other commission must hand over the case to that Commission and close it, at its own end.

Most of the states are yet to constitute State Human Rights Commissions. Therefore, all the complaints of human rights violations are being referred to the NHRC. In India, because of its size, territory-wise as well as population-wise, it is difficult for any single institution to meet the growing demand of the protection of human rights of all persons, especially in the context of increasing violations of human rights. Thus, there is a work load on the part of NHRC regarding the receiving of complaints has increased beyond proportion. Therefore, it is the need of the hour that every State must constitute its own Human Rights Commission so as to provide speedy justice to the people and to protect them from the violation of their human rights.

Human Rights Courts at District Level:

Prior to enactment of the Protection of Human Rights Act,1993 through which the NHRC has been established, most of the human rights violations were to be redressed either by the Supreme Court under Article 32 or by the High Courts under Article 226 of the Constitution of India through their writ jurisdiction. The remedy provided under the Constitution is expensive and beyond the reach of common man.

Sec. 30 of the PHRA which provides for the establishment of Human Rights Courts at District level is as follows:

For the purpose of providing speedy trial of offences arising out of violation of human rights,

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the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify for each District a Court of Session to be a Human Rights Court to try the said offences;

a) A Court of Session is already specified as a special court; or

b) A Special Court is already constituted, for such offences under any other law for the time being in force.

In fact, in some of the States where the Human Rights Courts are being established, the jurisdiction of such courts and procedure to be adopted, while dealing with the petitions of violation of human rights has not been expressly specified. Therefore, the non-availability of any clear cut jurisdiction and procedure regarding these courts while dealing with violation of human rights is making these courts ineffective.

The very fact that, the majority of the States have not yet established the Human Rights Courts in their States even after the lapse of more than ten years from the date of commencement of the Protection of Human Rights Act, which shows the States casual attitude towards the protection of human rights.

Further, if the assumption is that the powers of these courts while dealing with the cases involving violation of human rights will be same as that of Supreme Court or of High Courts, under Articles 32 and 226 of the Constitution of India respectively. It is also not clear whether these Courts can hear the petition brought before them by the complainant or will duly hear those cases which have been directed by the National or State Human Rights Commission to these Courts for prosecution.

Therefore, the repent provision under Section 30 of the PHRA is inadequate, defective and requires modification without which, Human Rights Courts at the District level, even if formed, cannot function properly and effectively. The National Human Rights Commission has recommended in its Annual Reports repeatedly an amendment to Section 30 so as to impose mandatory obligation on every State to establish Human Rights Courts at District level properly defining their jurisdiction and the procedure to be followed in dealing with the human rights cases.

The Commission has taken the issue of custodial violence seriously. It firmly believes that, all

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cases of custodial deaths, rapes, etc.,[7] including those involving the army and para-military forces should be reported to the Commission as early as on 14th December, 1993, issued instructions all States asking them to direct all District Magistrates and Supertendants of Police to report directly to the Commission on any instance of death or rape in police custody within 24 hours of its occurrence, failing which, there would be a presumption that efforts were being made to suppress the truth. It reflects the credibility and force for the directives that the States have continued to comply with these instructions.

The Role of Non-Government Organisations in the Protection of Human Rights:

Since the end of the Second World War and most especially since the end of the 1970's, there has been an explosive emergence of local, national and international voluntary organizations working for the promotion and protection of human rights on every continent and in almost every country in the world. These NGO's vary enormously in their membership, leadership and purposes, in the scope of their activities and programmes and in the influence or impact they have in domestic, regional or international arenas.

Now a days, there is a wide range of NGO's working in India in various fields relating to human rights, specifically in the field of child welfare, environment, bonded labour, women rights, health, disabled rights, education, labour welfare, welfare of indigenous people and the rehabilitation of manual scavengers. Besides the groups which are specifically involved to respond to the lawlessness of the State, there are hundreds of groups struggling for distributive justice. There are also advocacy and support groups.

The exceptional role of Non-Governmental Organisations in furthering human rights is given appropriate and special recognition in the Protection of Human Rights Act, 1993. Sec. 12 (i) of the said Act, expressly charges the Commission to 'encourage the efforts of non-governmental organisations and institution as working in the field of human rights'. This is a responsibility which the Commission readily assumes, for the cause has much to gain both from the practical help and from the constructive criticisms that NGO's and the Commission can bring to bear in their mutual interaction and growing relationship.

4.0 PROTECTION & ENFORCEMENT OF INTERNATIONAL HUMAN RIGHTS IN INDIA AND THE

[7] KHANNA D.P, 'REFORMING HUMAN RIGHTS', MANASA PUBLICATIONS, NEW DEHLI [ed,3rd at p. 15].

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ROLE OF JUDICIARY:

The Judiciary is the last resort for citizens seeking justice. The judiciary plays an important role in protecting the constitutional rights of the people from the State actions. Today, the Judiciary is no more concerned only with application of laws made by the legislature, but on the contrary it has assumed an active part eve in law making process by way of judicial activism. The Supreme Court of India has displayed a remarkable craftsmanship to promote and protect human rights. The Apex Court has succeeded in reading some of the DPSP into Part III of the Constitution through creative exercise with respect to the Indian Constitution which has taken place in the context to Article 21. The Supreme Court has extended the meaning of life and personal liberty in such way that it has read in a number of unremunerated right into Article 21 of the Constitution of India. Judiciary is ultimate guardian of the human rights of the people. It not only protects the rights enumerated in Constitution but also has recognized certain enumerated rights by interpreting the fundamental rights and widened their scope. As a result people not only enjoy enumerated rights but also un-enumerated rights as well.

4.1 CUSTODIAL VIOLENCE:

Custody death, torture in custody & custodial rape has been subjects of much concern. Custodial violence has been on the agenda of civil rights groups for over two decades, and reports documenting instances of violence and its systemic occurrence, have been instrumental in the campaigns against custodial violence. Although custody deaths have found an acknowledgment from the state, and the NHRC has issued directions to the states to report of NHRC any death in custody within 24 hours of the occurrence and to videotape the post-mortem proceedings, it is difficult to assess if this has resulted in any reduction in the incidence of custody deaths. NHRC reports show a marked increase in the reported cases of custody deaths each year. This is attributed, by the NHRC, to increased reporting and not to increased incidence of the crime this however, needs to be further investigated. The incidence of custody deaths demonstrates more undeniably the brutalisation of the processes of law enforcement by the police & armed forces. However, custodial torture (not resulting in death) is not at the focus of campaigns to reduce custodial violence. There are few places which have taken up the treatment of the victims of torture as victims of torture. The Indian state, in the meantime, has resisted attempts to have it ratify the torture convention. In recent reported cases from Gauhati

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High Court, it is 15 & 16 year olds who are found to have been victims of state violence, and the defence of the state has been that they were hardened militants.[8]

Sexual Harassment at the Workplace:

This issue acquired visibility with the decision of the Supreme Court in Vishaka. Earlier efforts at having the problem addressed as, for instance in the Delhi University, has drawn strength from the guidelines set out in the judgment. It was widely reported, however, that it was still proving difficult to get institutions to adopt the guidelines and act upon it. The Madras High Court, for instance was reportedly averring that the guidelines did not apply to the court & allegations of sexual harassment by a senior member of the Registry were given short shrift. The process of setting up a credible grievance redressal mechanism was reportedly being watered down in the recommendation of a committee to the Delhi University. In Kerala, a Commission of Inquiry was set up after Nalini Netto, a senior official of the Indian Administrative Service, pursued her complaint of sexual harassment against a serving minister of the state cabinet- which is seen as a diversion from a representative investigative & redressal forum. P E Usha, in Kerala, faced hostility in her university when she followed up on her complaint of sexual harassment. There have been allegations of sexual harassment of women employees by senior persons within institutions working on human rights, and in progressive publications, which too have shown up the inadequacy of the redressal mechanisms. Hence many programmes like translating the guidelines into norms in different institutions & workplaces finding support systems for women who are sexually harassed and breaking through thick walls of disbelief are reckoned to be the priorities. This programme on gender sensitisation has also been introduced. Sexual Harassment accompanied by violence has become a common feature with cases of acid throwing where there is unrequited love[9] & harassment which has culminated to the murder of a hounded girl.

4.2 CHILD LABOUR:

Apart from the employment of children in work, including those classified as hazardous. It was reported that, children continue to be sold into labour. The Parents of a young girl from Assam were paid a sum of money for girl to be brought to Delhi as a domestic worker. Her plight came

[8] Smt. Kangujam Thoibi Devi v. State of Manipur 1999 Cri LJ 3584.
[9] Students of Andhra Pradesh Agricultural University v. Registrar, Andhra Pradesh Agricultural University 1997 AIHC 2671 (AP).

Electronic copy available at: https://ssrn.com/abstract=4219345

to light when she ran away from the ill-treatment she suffered & she was given shelter by a social activist. Child workers employed in homes and in commercial workplaces were subjected to ill-treatment. The chaining of bonded child labour in the carpet industry near Varanasi so that they could not escape was reported. Injuries on the person of domestic child workers in Delhi sometimes resulting in death have been reported intermittently in the press. In Maharashtra, a civil liberties organisation took the state & a contractor to court when the latter ill-treated, resulting in death, one of the young boys he had brought with him from Tamil Nadu. These manifestations of violence against the child disguised as child labour calls to be addressed.[10]

Until the decision of Maneka Gandhi's case, the role of the judiciary was that of a passive in nature. This nature suddenly became active in 1978 in *Maneka Gandhi v. Union of India*[11]. In this case the Supreme Court held that any State action affecting life and liberty of a person has to be right, just, fair and reasonable and not arbitrary. A new trend was set in Maneka Gandhi case. The Supreme Court in order to protect human rights has sometimes assumed a dual role of both Legislature as well as Executive though the Constitution does not confer such omnipotent power on the judiciary. It was the judiciary who had to invent a new form of action to provide remedies to the suffers of human rights violations, such as poor, underprivileged & downtrodden section of the society. For instance, in *Bandhu Mukti Morcha v. Union of India.*[12] An organization dedicated to the cause of release of bonded labourers informed the Supreme Court through a letter that there were a large number of labourers working in the stone-quarries situated in Faridabad District under inhuman & intolerable conditions and many of them were bonded labourers. The Court treated the letter as a writ petition and after the inquiry ordered the release and rehabilitation of the bonded labourers.

Though there is no express provision in the Constitution of India for grant of compensation for violation of a fundamental right to life and personal liberty. But the judiciary has evolved a right to compensation in cases of illegal deprivation of personal liberty. In *Rudal Shah v. State of Bihar,*[13] the Court granted compensation of Rs.30,000/- against the bias Government for keeping a prisoner in illegal detention even after acquittal for more than 14 years thereby

[10] PUCL v. Union of India (1998) 8 SCC 485.
[11] Maneka Gandhi v. Union of India AIR 1978 SC 597.
[12] Bandhu Mukti Morcha v. Union of India AIR 1984 SC 802.
[13] Rudal Shah v. State of Bihar AIR 1983 SC 1086.

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violating his right to liberty. Similarly, in *M.C Metha v. Union of India,*[14]the Supreme Court held that the power of the Court under 32(1) is not only is a substantive in nature, that enforces the fundamental rights, but it is also remedial in scope.

In *Hussainara Khatoon v. Home Secretary, State of Bihar.*[15] There was a large number of under trial prisoners in the State of Bihar which were languishing in jails without trials. A lady filed public interest litigation (PIL)[16] before the Supreme Court on the inquiry it was revealed that there were 30,000 prisoners out of which 400 prisoners lived in jails for a longer period what the sentence would have caused them to say inside the jail. Supreme Court held that according to Article 21, a reasonable, fair & just procedure requires that there must be speedy trial. It also requires that the prisoners should get legal aid. They also have right to be released on bail if there is no grave possibility of their escape. Supreme Court ordered immediate release of the 400 and odd prisoners from the jail. In this way Article 21 got further expanded to include more and more human rights by Supreme Court.

Human Rights Watch:

Human Rights Watch began in 1978 with the founding of its Helsinki division. Today it has many divisions covering a major part of the globe, in the continent of Africa, the America, Asia, the Middle East as well as the signatories of the Helsinki accord. It is an independent, non-governmental organization supported by contributions from private individuals and foundations worldwide.

Human Rights Watch conducts regular systematic investigations of human rights abuses in some seventy countries of the world including India. Its latest report on women's human rights violations for the period 1990- 1995 contains the work of research done by staff members and consultations around the world. This report contains an account of cases of rape committed in Jammu and Kashmir by the Armed Forces as well as Armed Militants. As per this report, 'rape has been used as a weapon to punish, intimidate, coerce, humiliate and degrade.

5.0 INTERNATIONAL HUMAN RIGHTS LAW AT THE DOMESTIC LEVEL:

[14] M.C Metha v. Union of India AIR 1987 SC 1086.
[15] Hussainara Khatoon v. Home Secretary, State of Bihar AIR 1979 SC 1360.
[16] PIL was started to protect the fundamental rights of people who are poor, ignorant or in socially/economically disadvantaged position. It is different from ordinary litigation, in that it is not filed by one private person against another for the enforcement of a personal right. The presence of 'Public Interest' is important to file a PIL.

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As provided in article 27 of the Vienna Convention on the Law of Treaties, a State "may not invoke the provisions of its internal law as justification for its failure to perform a treaty". On the other hand, States are free to choose their own modalities for effectively implementing their international legal obligations, and for bringing national law into compliance with these obligations. Since domestic legal systems differ considerably in this respect, albeit also having some similarities, it will be for each domestic judge, prosecutor and lawyer concerned to keep himself or herself informed as to the manner of incorporation of the State's international legal obligations into national law.

1. First, according to the monist theory, of which there are in fact several divergent versions international law and domestic law can in general terms be described as forming one legal system. This means that once a State has ratified a treaty for the protection of the human person, for instance, the terms of that treaty automatically become binding rules of domestic law.
2. Secondly, according to the dualist theory, municipal law and international law are different legal systems. Municipal law is supreme, and for municipal judges to be competent to apply international treaty rules, for instance, these have to be specifically adopted or transposed into domestic law. It follows that a human rights treaty ratified by the State concerned cannot in principle be invoked by local judges unless the treaty is incorporated into municipal law, a process which normally requires an Act of Parliament.
3. Constitutions: Many constitutions actually contain numerous human rights provisions, which may follow the text of, for instance, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights or the regional human rights conventions. The use of such common language enables judges, prosecutors and lawyers to draw upon the jurisprudence of, in particular, international courts and other monitoring organs in interpreting the meaning of their own constitutional or other provisions;
4. Other national legislation: Many States adopt specific legislation either to clarify or elaborate on their constitutional provisions, or in order to adapt their domestic laws to their international legal obligations.

6.0 DOMESTIC APPLICATION OF INTERNATIONAL HUMAN RIGHTS LAW IN INDIA

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Article 51 (c) and Executive Power to Implement Treaties:

Article 51 (c) enjoins the State to foster respect for International Law and Treaty Obligations. The term State includes the Government (Union Executive) under Article 12 of the Constitution. In this context, an issue that arises for consideration is that whether Article 51 (c) confers power on the Government (Union Executive) to implement International Treaties Article 51 (c) finds place in Part IV of the Constitution that deals with the Directive Principles of State Policy. The nature and scope of Directive Principles of State Policy is that they are fundamental in the governance of the country and the State is mandated to apply them in making laws. However, they are non justiciable. Thus, the status of Article 51 (c) is that it directs the State to respect Treaty Obligations while making laws meaning any law made by the Parliament shall not conflict with the Treaty Obligations. Further, how Treaty Obligations are to be respected is a matter to be determined as per the provisions of the Constitution. It is submitted that the power of the Union Executive to implement International (human rights) Treaties is "subject to the provisions of the Constitution" as discussed above and that Article 51 (c) being merely a Directive Principles of State Policy cannot override the express saving clause under Article 73. Even to implement any Directive Principle of State Policy the Government has to pass a law to give effect to it. Thus, to say that Government (Union Executive) can implement Treaties by virtue of duty under Article 51 (c) without an enabling legislation by the Parliament holds no water.

Unlike Articles 32 and 226 that empower the Supreme Court and High Courts to enforce fundamental rights guaranteed under the Constitution, there is no specific provision in the Constitution that empowers these constitutional courts to enforce international treaty rights against the State. The only provision that deals with the international treaty obligations of the State is Article 51(c) of the Constitution which mandates the State to foster respect for international law and treaty obligations.

In *Corocraft v. Pan American Airways*[17] The above observation of Sikri C.J. has been followed by the Supreme Court whenever the provisions of international law are in conflict with Indian laws and attempts have been made to interpret Indian laws in conformity with international law. Thus, the status of Article 51(c) is that it could be used for interpretive tool and to harmonize the Indian laws with International law including treaty obligations whenever there

[17] Corocraft v. Pan American Airways (1969) 1 All E.R. 82; 87

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is a conflict between the two. In *Xavier v. Canara Bank Ltd* [18] whether Article 11 of the ICCPR 1966, viz., that "no one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation" has become part of the Municipal Law of this Country consequently conferring right to remedial action at the instance of an aggrieved individual of this Country ? In dealing with this question, the High Court observed :The remedy for breaches of International Law in general is not be found in the law courts of the State because International Law per se or proprio vigore has not the force or authority of civil law, till under its inspirational impact actual legislation is undertaken. I agree that the Declaration of Human Right merely sets a common standard of achievement for all peoples and all nations but cannot create binding set of rules. Member States may seek, through appropriate agencies, to initiate action when these basic rights are violated, but individual citizens cannot complain about their breach in the municipal courts even if the country concerning has adopted the covenants and ratified the Optional Protocol. The individual cannot come to court but may complain to the Human Rights Committee, which in turn, will set in motion other procedures. In short, the basic human rights, enshrined in the International Covenants above referred to may at best inform judicial institutions and inspire legislative action within member – States but apart from such deep reverence, remedial action at the instance of an aggrieved individual is beyond the area of judicial authority.

In *Jolly George Varghese v. Bank*[19] of Cochin was whether a person could be arrested and detained in civil prison in terms of Section 51 of Code of Civil Procedure for non-payment of decreed amount as for non-payment of decreed amount as against the right guaranteed under Article 11 of ICCPR to which India was a party by then, which says that "no one shall be imprisoned merely on the ground of inability to full fill contractual obligation". the issue was one of interpretation between Article 11 of ICCPR and Section 51 of CPC. The case was very important one as the Supreme Court was dealing with a case wherein there was a conflict between domestic law and international treaty right to which India became Party just eight months ago and any result would have far reaching effect on the subsequent cases involving invocation of international human rights treaties before Indian courts and it is submitted that Jolly George was the first real case that offered a great opportunity for the Supreme Court to apply and interpret an international human rights treaty into the corpus-juris of India. The Court observed that U.N. Resolutions and Covenants mirror the conscience of mankind and

[18] Xavier v. Canara Bank Ltd 1969 Ker.L.T . 927.
[19] Jolly George Varghese v. Bank AIR 1980 SC 470

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inseminate, within the member States, progressive legislation; but till this last step of actual enactment of law takes place, the citizen in a world of sovereign States, has only inchoate rights in the domestic Courts under these international covenants.

In Sheela Barse v. Secretary, Children's Aid Society the petitioner appellant, a journalist, complained about the state of affairs in an observation home for children and sought prohibition over employment of children without remuneration while in custody and also sought direction for proper up keep of the observation home. While issuing directions to the State of Maharashtra, the Supreme Court observed that:

"Children are the citizens of the future era. On the proper bringing up of children and giving them the proper training to turn out to be good citizens depends the future of the country. In recent years, this position has been well realized. In 1959, the Declaration of all the rights of the child adopted by the General Assembly of the United Nations and in Article 24 of the International Covenant on Civil and Political Rights 1966. The importance of the child has been, appropriately recognized. India as a party to these International Charters having ratified the Declarations, it is an obligation of the Government of India as also the State machinery to implement the same in the proper way." [20]

What kinds of international rules can be accessed?

On this point the Court said "the contents of International Conventions and norms are significant for the purpose of interpretation of the guarantee of gender equality, right to work with human dignity in Articles 14, 15 19(1) (g) and 21 of the Constitution and the safeguards against sexual harassment implicit therein. Any International Convention not inconsistent with the fundamental rights and in harmony with its spirit must be read into these provisions to enlarge the meaning and content thereof, to promote the object of the constitutional guarantee." The mandate is clear, any international conventions and norms that are not in conflict with the fundamental rights could be read into the content of fundamental rights to do justice. Needless to say the Supreme Court has always interpreted national laws in harmony with the international law unless it is inevitable. By saying Norms, the Court indeed has enlarged the scope of the vast category of international norms and principles that occupy the field of human rights including UDHR. This is indeed debatable as to how these norms and principles, which

[20] Sheela Barse v. Secretary, Children's Aid Society AIR 1987 SC 656 at para 5.

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are non binding in nature under international law, could be applied for enforcing fundamental rights. It is submitted that international norms or principles are not enforceable per se and they are only directive in nature. *Chairman, Railway Board v. Chandrima Das*[21], was an Appeal against the Order of the Calcutta High Court. A petition was filed in the Calcutta High Court by an advocate practicing in the same Court against the Chairman of the Railway Board The Court specifically referred to UDHR and Declaration on the Elimination of Violence against Women (DEVAW in short) by the General Assembly of the UN to construe the meaning of "LIFE" and its scope. The Court referred to the Preamble and Articles 1,2,3,5,7, and 9 of the UDHR and Articles 1 to 3 of the DEVAW and noted that the provisions of UDHR and DEVAW recognized the right of "everyone" to life, liberty and security of person, and that no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, and that women are entitled to the equal protection of "human rights".

7.0 PROTECTION OF WOMEN AGAINST SEXUAL HARASSMENT AT WORKPLACE

It notes the Vishaka v. State of Rajasthan judgment of the Supreme Court. The Apex Court in the said case worked out a definition of sexual harassment and issued guidelines to be followed for prevention of sexual harassment of women at workplace. The Court did note the absence of specific law on the issue and referred Convention on Elimination of All Forms Discrimination against Women (CEDAW) to which India is a Party. It is curious to note here that the proposed Bill is an attempt to full fill India's international obligation under CEDAW but fails to mention it. The Bill seeks to ensure protection of women against sexual harassment at the workplace, both in public and private sectors whether organized or unorganized. Under the Bill, women can complain against harassment ranging from physical contact, demand or requests for sexual favors, sexually colored remarks or showing pornography. The Bill provides for an effective complaints and redressal mechanism and in this regard proposes two committees Internal Complaints Committee (ICC) and Local Complaints Committee (LCC) to be setup by the employer and District Officer respectively to deal with complaints and recommend action to the employer or District Officer as the case may be. Further, the Bill provides protection not only to women who are employed but also to any woman who enters the workplace as a client, customer, apprentice and daily wageworker or in ad-hoc capacity.

[21] Chairman, Railway Board v. Chandrima Das AIR 2000 SC 988.

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Students, research scholars in colleges and universities and patients in hospitals have also been covered.

8.0 THE RIGHTS OF PERSONS WITH DISABILITIES

The Statement of objects and reasons as well as Preamble of the Bill makes it clear that the Bill is intended to fulfill India's obligation to enact suitable law to implement Convention on the Rights of Persons with Disabilities, 2007 (CRPD). The Bill when comes into force will replace the existing law i.e., The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The salient features of the proposed legislation are as follows: 1) to guarantee equality and non-discrimination to all persons with disabilities; 2) to recognize legal capacity of all persons with disabilities and make provision for support where required to exercise such legal capacity; 3) to recognize the multiple and aggravated discrimination faced by women with disabilities and induct a gendered understanding in both the rights and the programmatic interventions; 4) to recognize the special vulnerabilities of children with disabilities and ensure that they are treated on an equal basis with other children; 5) to mandate proactive interventions for persons with disabilities who are elderly, confined to their homes, abandoned and segregated or living in institutions and also those who need high support; 6) to establish National and State Disability Rights Authorities which facilitate the formulation of disability policy and law with active participation of persons with disabilities.

9.0 PROTECTION OF THE RIGHTS OF CHILDREN IN THE CONTEXT OF COVID-19 BY NHRC

The National Human Rights Commission (NHRC), viewing the unprecedented situation imposed by the COVID-19 pandemic and the resultant lockdowns, had issued a 'Human Rights Advisory for Protection of the Rights of Children in the context of COVID-19' While many recommendations made in the aforementioned Advisory on Children continue to be relevant and, therefore, need to be continued in their implementation for the children and their families who are experiencing the long term and continuing impacts of the first and second wave of the pandemic; there is a need for greater preparedness and action for the protection of children by all stakeholders for the future especially as experts warn about the impending third wave of the pandemic. Accordingly, NHRC is issuing the Advisory for Protection of the Rights of Children in the context of COVID-19 concerning the following broad aspects: (1) Health of Children, (2) Education of Children, (3) Children in Child Care Institutions, and (4) Children orphaned during the COVID-19 pandemic.

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1. Strengthen paediatric COVID hospitals and protocols
2. Vaccination coverage of health workers and frontline staff
3. Psycho-Social Support (PSS)
4. Training of ground-level workers
5. Food & nutrition[22]

10.0 NHRC, INDIA AND INTERNATIONAL CONVENTIONS:

Section 12(f) of the Protection of Human Rights Act, 1993 (PHRA) mandates the National Human Rights Commission of India to "study treaties and other international instruments on human rights and make recommendations for their effective implementation". The NHRC carries out this function primarily through recommendations to and discussions with the concerned Ministries of the Central Government. The NHRC uses this power to ensure that draft bills conform to the international human rights standards that have been accepted by the Government of India. It supplements this through a host of programmes, conferences, workshops and seminars that raise awareness, such as the workshop it organized in 2009 to highlight the problems faced by, and the steps needed to protect human rights defenders in keeping with best international practice.

In addition to pursuing the case for the signing and ratification of International Human Rights Instruments with the Government of India, the Commission also reviews the domestic laws of the country to ensure the implementation of the International Conventions at the national level and to ensure that domestic laws are in line with international human rights standards.

The Government of India usually sends to the NHRC for its comments, all draft legislation with a human rights component. The NHRC examines these drafts, where necessary asking experts in the field for their advice, and sends its recommendations to the Government. Select Committees of Parliament often refer important legislation on human rights issues to the NHRC for its comments and advice.

11.0 UNIVERSAL DECLARATION OF HUMAN RIGHTS AND INDIAN CONSTITUTION

India was a signatory to the Universal Declaration of Human Rights. The Indian constitution

[22] https://nhrc.nic.in/sites/default/files/NHRC%20Advisory%20on%20Children.pdf (Accessed on 19th May, 2022)

Electronic copy available at: https://ssrn.com/abstract=4219345

was adopted by the constituent Assembly on Dec 26, 1949, which came into force from Jan 26, 1950. Our Indian constitution was greatly influenced by the Universal Declaration of Human Rights, 1948. Provisions of Part III which stands for Fundamental Rights and Part IV for Directive Principles of State Policy bear a close resemblance to the Universal Declaration of Human Rights. As a result, a number of fundamental rights guaranteed in Part III of the Indian Constitution are similar to the provision of Declaration.

In *Kesavananda Bharati vs State of Kerala*[23] (AIR 1973 SC 1461), the Supreme Court observed that the Universal Declaration of Human Rights may not be a legally binding instrument but it shows how India understood the nature of the Human Rights at the time the Constitution was adopted. Thus, although the Supreme Court has stated that the Declaration cannot create a binding set of rules and even international treaties may at best inform judicial institutions and inspire legislative action, constitutional interpretation in India has been strongly influenced by the Declaration.

In Chairman, Railway Board and others v Mrs. Chandrima Das[24] (AIR 2000 SC 988), the Supreme Court observed that the Declaration has the international recognition as the "Moral code of Conduct" having been adopted by the General Assembly of the United Nations. In a number of cases the Declaration has been referred to in the decisions of the Supreme Court and High Courts.

India has ratified the International covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights on March 27, 1979. By ratification it has established on the international plane its consent to be bound by them. It has an obligation to provide to the individuals the rights contained in the two Covenants.

11.1 COVENANT ON CIVIL AND POLITICAL RIGHTS:

The Indian constitution provides a number of rights which are called fundamental rights. The expression fundamental rights "denotes that these rights are inherent in all human beings and they are required for blossoming of the human personality and soul". These rights have been given a place of pride in the Constitution. These rights are therefore necessary to protect the

[23] Kesavananda Bharati v. State of Kerala, (AIR 1973 SC 1461).
[24] Chairman, Railway Board and others v. Mrs. Chandrima Das, (AIR 2000 SC 988).

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dignity of individuals and to create conditions in which a person can develop to the fullest extent.

Name of the Rights	**Covenant on Civil and Political Rights**	**Indian Constitution**
Forced Labour	Art. 8(3)	Art. 23
Equality before law	Art.14(1)	Art. 14
Prohibition of discrimination	Art. 26	Art. 15(1)
Equality of opportunity	Art. 25(c)	Art. 16(1)
Freedom of speech and expression	Art. 19(1) &(2)	Art. 19(1)(a)
Freedom of peaceful assembly	Art. 21	Art. 19(1)(b)
Right of freedom of association	Art. 23(4)	Art. 19(1)(c)
Right to life and liberty	Art. 6(1) &9(1)	Art. 21
Freedom of conscience and religion	Art. 18(1)	Art. 25

The following are the rights which are contained in the Covenant on Civil and Political Rights are available to the citizens of India in spite of their not being specifically mentioned in the Constitution.

11.2 RIGHT TO PRIVACY

By the expression right to privacy we mean the right to be left alone to live one‟ s own life with minimum degree of interference. The right to privacy is stipulated in the Covenant on Civil and political Rights under Art. 17(1) which says that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. But this right is not guaranteed in the constitution. However, in *Kharak Sing v State of U.P*[25] it was held by the Supreme Court that the domiciliary

[25] Kharak Sing v. State of U.P, (1964) 1 SCR 33.

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visits is an infringement of the right to privacy and is violative of the citizen‟ s fundamental right guaranteed under Art.21 of the Indian Constitution.

11.3 RIGHT TO TRAVEL ABROAD

The right to travel abroad is a guaranteed right under Art.12 Para 2 of the Covenant; however it is not specifically recognised under Part III of the Constitution as a fundamental right. The Supreme Court in *Satwant Sing v Asst. Passport Officer, New Delhi*[26] held that the right to go abroad is a part of the person‟ s personal liberty within the meaning of Art. 21.

11.4 RIGHT TO SPEEDY TRIAL

The Covenant on Civil and Political Rights laid down under Art. 9 Para (3) that anyone arrested or detained on a criminal charge shall be brought before judge and shall be entitled to trial within a reasonable time or to release. But the Constitution has got no provision for a person to be tried without undue delay.

11.5 RIGHT OF PRISONERS TO BE TREATED WITH HUMANITY

Article 10 of the Covenant on Civil and Political Rights under Para (1) lays all person deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. But the Indian Constitution there is no such provision in Part III which can safeguard the brutal treatment given to the prisoners. However, In *D.K. Basu v State of West Bengal*[27] [AIR 1997 SC 610], the Supreme Court held that the precious right guaranteed by the Constitution of India cannot be denied to convicts, under trials, detenues and other prisoners in custody except according to the procedure established by law.

12.0 COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS AND INDIA CONSTITUTION

The economic, Social and Cultural Rights of human beings are contained in the Economic, Social and Cultural Rights. The Covenant has significant feature which makes it different from the Covenant on Civil and Political Rights. Under the Covenant on Civil and Political Rights

[26] Satwant Sing v Asst. Passport Officer, New Delhi. [AIR 1967 SC 1836]
[27] D.K. Basu v State of West Bengal. [AIR 1997 SC 610].

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the states are under an obligation to respect and to ensure to all the individual the rights stipulated therein, but under the Covenant on Economic, Social and Cultural Rights the states are not bound to do so. Rights stipulated in the Covenant on Economic, Social and Cultural Rights do not find place in Part III of the Constitution but they are provided in Part IV of the Constitution which stands for the Directive Principles of State Policy. This Part contains a list of directives and instructions to be followed by the present and future governments irrespective of their political complexion. The directive principles are fundamental in governance of the Country. Thus Part IV cast upon the states the duties which they are required to follow. The directive principles which broadly incorporate the economic and social rights are as much as a part of human rights. Many rights enshrined in the Covenant on Economic, Social and Cultural Rights are incorporated in the directive principles.[28]

Thus, we can see that all rights like right to equal pay for equal work for both men and women, the right to protect the childhood of work and for maternity work, the right to work, right to adequate standard of living, etc are recognised in the Covenant as well as in our Indian Constitution. However, these rights being stated in Part IV of the Constitution are not enforceable in the court of law. But recently some of these rights are considered as fundamental by the Supreme Court by enlarging the scope of the fundamental rights stipulated in Part III of the constitution. This has done by broadening the ambit of the right to life‟ under Art.21 of the Constitution. Some of these rights are as follows:

12.1 EQUAL PAY FOR EQUAL WORK

The Covenant of Economic, Social and Cultural Rights under Art 7(a) lays down that fair wages and equal remuneration for work of equal value without distinction of any kind in particular women being guaranteed conditions of work not inferior to those enjoyed by men. Under the Indian constitution clause (d) of Art.39 of the Directive Principles of State Policy states about the equal pay for equal work for both men and women. In *Randhir Sing v Union of India*[29] [1982 AIR 879], the Supreme Court held that the principle of equal pay for equal work though not a fundamental right is certainly a Constitutional goal and capable through enforcement through Constitutional remedies available under art 32 of the Constitution.

[28] PROF. M.P.JAIN, INDIAN CONTITUTIONAL LAW, LEXIS NEXIS BUTTERWORTHS, WADHWA,NAGPUR. [ed. 5th reprint 2009, at 341.]
[29] Randhir Sing v Union of India, [1982 AIR 879].

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12.1.1 Right of workmen to medical benefits

Safe and healthy working conditions and the creation of conditions which would assure to all medical service and medical attention in the event of sickness" are the rights which are stated in Art.7, Para (b) and Article 12, Para 2(d) under the Covenant on Economic, Social and Cultural Rights.

12.1.2 Right to livelihood

Art. 6 of the Covenant of Economic, Social and Cultural Rights says right to work including the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right. The right to livelihood has been incorporated in Art 39(a) and Art 41 of the Indian Constitution.

12.1.3 Right to shelter

The Covenant on the Economic, social and Cultural Rights under Art 7 Para (a)(ii) lays down that the States parties recognise the right of everyone for decent living for themselves and their families and Art. 11 they recognise the right of everyone to an adequate standard of living for himself and his family including housing. It shows that right to shelter finds a place in the Covenant but it has not been enumerated specifically in the Indian Constitution. However, the Supreme Court in *Chameli Sing v State of U.P.* [30] it was held that by the Supreme Court that the right to live includes the right to food, water, decent environment, education, medical care and shelter. As of right to shelter is concerned the court held that it includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity and other civil amenities like roads, etc.

13.0 Optional Protocol to the Covenant on Civil & Political Rights, 1966. Second Optional Protocol Aiming at the Abolition of Death Penalty, 1989

The first Optional Protocol is procedural and provides a mechanism for the Committee to receive and consider individual complaints alleging a violation of the Covenant, that is to say of the substantive rights contained in Part III, if appropriate in conjunction with the provisions of Parts I and II. As its name makes clear, the Protocol is not compulsory, but once a State

[30] Chameli Sing v State of U.P. [AIR 1996 SC 1051].

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party to the Covenant also becomes a party to the Protocol, any person subject to the jurisdiction of the State party may lodge a written complaint with the Human Rights Committee (subject to any permissible reservations). This is not limited to nationals, or to persons within a State's territory, but extends to all persons who are directly subject to a State's exercise of power through its authorities. Thus, for example, a national of a State party residing abroad who was denied a passport by that State was able to bring a claim to the Committee.[31]The Protocol sets out in articles 1, 2, 3 and 5 a series of admissibility requirements, explicit and implicit, which a complaint must satisfy before its substance, or merits, can be considered. Article 4 of the Protocol sets out basic procedural requirements for the treatment of a complaint. Under article 6, the Committee reports annually to the General Assembly on its activities concerning complaints, while articles 7 through 14 contain largely standard savings and technical provisions on the mechanics of becoming a party, entry into force, notification, amendment, denunciation and the like. Article 10, like the parent Covenant, provides that the Protocol too extends without exception to all parts of federal States. Article 12 allows a State party to denounce the Optional Protocol. The purpose of the Second Optional Protocol is revealed by its full title, "aiming at the abolition of the death penalty". Its single substantive provision, article 1, states directly that no person within a State party's jurisdiction shall be executed, and that each State party shall take all necessary measures to abolish the death penalty. Article 2 permits, subject to certain procedural requirements, only one reservation, namely one reserving the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed in wartime. Article 6 provides that these provisions are non-derogable and, as substantive provisions, apply as additional provisions to the Covenant.

The events of the First and Second World Wars led the international community in expressing their concern for the promotion of human rights universally. This has influenced the development of the rules of international law for the protection of natural rights of the individual. There is a systematic human rights protection within the international system only with the entry into force of United Nations Charter in 1945. Although, human rights did not become the concern of international politics or law until after the Second World War, but individual welfare was not entirely beyond the ken of the international system even before that.

[31] DR. S.K. "INTERNATIONAL LAW & HUMAN RIGHTS", CENTRAL LAW AGENCY PUBLICATIONS, ALLAHABAD, 2017 [ed.21th, at 836].

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International law and human rights were inherent with the history of ideas, both having antecedents in natural law and in Roman law.

It is clear that the modem international law of human rights is a post Second World War phenomenon. Human rights is a subject of contemporary international law and the efforts to regulate human rights at an international level only gained momentum after Second World War. The aftermath of the Second World War witnessed serious efforts of individuals in different parts of the world, to preserve and protect human rights through codification and global institutions. The genesis of the deep international concern for human rights can be traced to the creation of functional institutions at the global level.

International Human Rights:

When a State becomes a party to an International Human Rights treaty, it assumes obligations and duties under international law to respect and protect human rights and to refrain from certain acts. Three of the most important international instruments pertaining to human rights are collectively known as the International Bill of Human Rights: The Universal Declaration of Human Rights (UDHR) International Covenant on Civil and Political Rights (ICCPR) International Covenant on Economic, Social and Cultural Rights (ICESCR). Regional Convention on Human Rights: Being with the adoption of the European Convention on Human Rights in 1950, the trend to elaborate regional standards continued with the adoption of the American Convention on Human Rights in 1967, which was subsequently followed by the African Charter on Human & People's Rights, adopted in 1981. Various other regional treaties have been elaborated in an effort to render the protection not only of civil & political rights, but also of economic, social and cultural rights, more efficient.

14.0 U.N. MECHANISMS AND ENFORCEMENT:

Democracy based on the rule of law, is ultimately a means to achieve international peace and security, economic and social progress and development, and respect for human rights – the three pillars of the United Nations mission as set forth in the UN Charter. The UN Security Council, at times, deals with grave human rights violations, often in conflict areas. The UN Charter gives the Security Council the authority to investigate and mediate, dispatch a mission, appoint special envoys, or request the Secretary-General to use his good offices.

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The Security Council may issue a ceasefire directive, dispatch military observers or a peacekeeping force. If this is not enough, the Security Council can opt for enforcement measures, such as economic sanctions, arms embargos, financial penalties and restrictions, travel bans, the severance of diplomatic relations, a blockade, or even collective military action. The Office of the High Commissioner for Human Rights interacts with and provides advice and support on human rights issues to these bodies and mechanisms. The Office also works to mainstream human rights in all areas of work of the Organization, including development, peacekeeping, women, peace and security, and responding to humanitarian crises. Human rights issues are also addressed in the context of the post-conflict UN peacebuilding support activities.

The human rights treaty bodies are committees of independent experts that monitor the implementation of the core international human rights treaties. Each State party to a treaty has an obligation to take steps to ensure that everyone in the State can enjoy the rights set out in the treaty.

The Office of the High Commissioner for Human Rights has lead responsibility in the UN system for the promotion and protection of human rights. The office supports the human rights components of peacekeeping missions in several countries.

15.0 HUMAN RIGHTS IN INDIA

Human Rights in Indian have been provided in the form of Part III of the Constitution of Indian which guarantees several Fundamental rights and freedoms.

Indeed, human rights are very essential for the overall development of the human being not only at national but also at international level. But they should be protected for the betterment of the society. In India, we have human rights in our Constitution. Therefore, it is our duty to see that human rights become meaningful to a large number of people in this country. The impact of the Universal Declaration of Human Rights on drafting part III of the Constitution is apparent. India has acceded to the Universal Declaration of Human Rights as well as to the subsequent International Covenants of Economic, Social and Cultural rights and Civil & Political Rights adopted by the General Assembly of the United Nations.

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In India, the National Human Rights Commission can play a vital role in influencing the policy making and sometimes even policy initiations, facilitating protection and promotion of human rights, such institutions provide an excellent mechanism for building public opinion and strong alliances and partnerships with non-governmental organisations and other human rights activists for influencing the national agenda on human rights. The judiciary plays an important role in protecting the constitutional rights of the people from the State actions. Today, the Judiciary is no more concerned only with application of laws made by the legislature, but on the contrary it has assumed an active part eve in law making process by way of judicial activism. The Supreme Court of India has displayed a remarkable craftsmanship to promote and protect human rights. Findings

16.0 UN CHARTER

The Charter of the United Nations adopted in 1945 forms the Constitution of the international community. It lays down the principles accepted by international community at large and act as the ground norm from which other international legal instruments (convention and treaties) are concluded. The United Nations mechanisms for human rights has provided committees & treaties though which Human Right Council its principal organ. Unlike Universal Declarations, charter-based & treaty-based mechanisms no provision is made for an institution to carrying out to resolve disputes.

17.0 JUDICIAL SETTLEMENT

There is currently no international court to administer international human rights law however, quasi-judicial bodies exists under some UN treaties. The International Criminal Court (ICC) has jurisdiction over the crime of genocide, war crimes and crimes against humanity. The United Nations Human Rights Bodies do have some quasi legal enforcement mechanisms. These include the Treaty Bodies attached to the current active treaties. The enforcement of international human rights law is the responsibility of the Nation State, and it is the primary responsibility of the State to make human rights a reality. In practice, many human rights are very difficult to legally enforce due to the absence of consensus on the application of certain rights, the lack of relevant national legislation or of bodies empowered to take legal action to enforce them**.**

18.0 ROLE OF NATIONAL HUMAN RIGHTS COMMISSION

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The main purpose of setting up of the Commission is to strengthen the machinery for more effective enforcement of fundamental rights of the people. Ever since the establishment of the Commission, it has been discharging its functions effectively. The Commission has awarded compensation in many cases of custodial deaths and also recommended for prosecution of the concerned police personnel. The Commission issued a number of guidelines to the States like mandatory requirement of reporting all custodial deaths to the NHRC within 24 hours, sending of magisterial enquiry reports in all cases of custodial deaths, and videography of post mortem in all cases of custodial deaths. These guidelines as well as the investigative mechanisms of the Commission had its salutary effect on checking the rising of custodial deaths.

Most of the States are yet to constitute State Human Rights Commissions. Especially in the context of increasing violations of human rights, it is difficult for any single institution to meet the growing demand for the protection of human rights of all persons. In a very short span of time, the National Human Rights Commission has been receiving many complaints of human rights violation from all parts of the country. Thus, its work-load has increased beyond proportion. Therefore, it is the need of the hour that every State must constitute its own Human Rights Commissions, so as to provide speedy justice to the people and protect them from the violation of their human rights. Till so far, only 14 State Human Rights Commissions are established for the effective implementation of human rights.

The Commission has become an effective check on the misdeeds, negligence, excesses, abuse of powers by police and other governmental agencies. The powers of the Commission which are in the nature of recommendatory, does not render it impotent. The Commission's power to follow-up its recommendations and the corresponding statutory obligations imposed upon the State authorities to answer them with action taken report are proposed to be taken, within a stipulated time, would speak of Commission's real authority. It is to be noted that the Commission has no power to take action directly. It does not have any power to punish the guilty. This position is far from satisfactory.

The functioning of the Commission is very much impressive in nature. The implementation mechanisms of the Commission make it abundantly clear that it does not replace the role of the regular Courts. Thus, the Commission has been functioning as supplement to the regular courts in cases of violations of human rights in providing better protection. Section 12 (a) of the Protection of Human Rights Act, 1993 provides that the Commission shall intervene in any

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proceeding involving any allegation of violation of human rights pending before a court with the approval of such court. It is important to note that the Commission has intervened in a number of pending proceedings involving human rights issues in different courts including the Supreme Court.

Thus, it is a unique and independent institution, which plays an ideal, supportive and supplementary role, to other institutions that are engaged in upholding rule of law in Indian society. The National Human Rights Commission is necessary in a graded society in the promotion and protection of basic human rights.

18.1 RIGHTS OF CHILD IN INDIA:

The Constitution of India makes provisions for the protection of children & their human rights. There are several provisions to this effect e.g. Art 15(3), 21-A, 39(e) and (f) and Article 45. International law also imposes various obligations and prescribes certain norms for the rights of the children. Convention on the Rights of the Child, 1989 (India has ratified it on 11 December 1992), the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules), and the United Nations Rules for the Protection of Juveniles Deprived of their liberty, 1990 are some of such important international instruments. India has enacted many laws including the Juvenile Justice (care & protection of Children) Act, 2015[32], the Commission for protection of Child Rights Act, 2005 & the protection of Children from Sexual Offences Act 2012.

18.2 COMMITTEE ON THE PROTECTION OF THE RIGHTS OF ALL THE MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES.

The Latest of the UN's human rights treaties, the International Convention on the Protection of the rights of All Migrant Workers & Members of their Families was adopted in 1990 and entered into force on 1 July 2003. It is monitored by the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families. This Committee consists of 10 members.

[32] The 2015 Act came into force on 15-1-2016. The Gazette of India, Extraordinary, Part II, SECTION 3, Sub-s (ii), 13-1-2016.

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The Function of this Committee include examining state reports submitted and making concluding observations and also issuing General Recommendations. Under the Treaty, it will be possible to address individual complaints once a minimum of 10 states have agreed to the practice.[33]

19.0 CONCLUSION:

Whether in its consideration of States parties' reports, its adoption of general comments, or its examination of complaints by individuals or States alleging violations of the Covenant, the Committee is the pre-eminent interpreter of the meaning of the International Covenant on Civil and Political Rights.& Economic, Social and Cultural Rights. In doing so, it seeks to give a full and generous interpretation to the meaning of the Covenant's provisions, consistent with its character as an instrument guaranteeing fundamental rights and freedoms. The Committee's members do not simply look at the formal legal position applicable in a particular State or case, but rather go deeper, to the practical realities on the ground in the States with which it is concerned, and issue findings with a view to achieving positive change. Indeed, compliance by a State with the Committee's Views is evidence of a State's good faith attitude towards its Covenants obligations. Over the years, the Committee's work has resulted in numerous changes of law, policy and practice, both at the general national level and in the context of individual cases. In a direct sense, therefore, the Committee's discharge of the monitoring functions entrusted to it under the Covenants has improved the lives of individuals in countries in all parts of the world. It is in this spirit that the Committee will continue to make its work relevant and applicable to all States parties, and to strive for the enjoyment of all civil, political & economic, social & cultural rights guaranteed by the Covenants, in full and without discrimination, by all people.

Fundamental Rights in India have been provided in the form of Part III of the Constitution of Indian which guarantees several Fundamental rights and freedoms. Indeed, human rights are very essential for the overall development of the human being not only at national but also at international level. But these human rights should not remain on paper. But they should be protected for the betterment of the society. In India, we have human rights in our Constitution. Therefore, it is our duty to see that human rights become meaningful to a large number of people in this country. The role of judiciary in the protection of human rights is certainly

[33] The United Nations Human Rights System, available at www.hrea.org/learn/guides/UN.html.

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commendable. However, in the quest for socio-economic justice the judiciary is sometimes overstepping the limits of its judicial function & trespass into the areas reserved for the legislature and the executive.

The rights of the citizens are the pillar of Democracy. Without rights, the citizens cannot develop their full potential. Thus, The establishment of the National Human Rights Commission in India has been quite positive. NHRC had come into existence in the year 1993 to provide better protection in cases of violations of human rights. National Human Rights Commission in India is playing a vital role in influencing the policy making and sometimes even policy initiations, facilitating protection and promotion of human rights. It is the bounden duty on the part of the State to implement the human rights. Strengthening the justice delivery system is the foundation for world peace which is achieved through universal respect for human rights. The judiciary has a very significant role in fulfilling the promise of the Universal Declaration that the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family.

Thus, the events of the First and Second World Wars led the international community in expressing their concern for the promotion of human rights universally. This has influenced the development of the rules of international law for the protection of natural rights of the individual. There is a systematic human rights protection within the international system only with the entry into force of United Nations Charter in 1945. Although, human rights did not become the concern of international politics or law until after the Second World War, but individual welfare was not entirely beyond the ken of the international system even before that. International law and human rights were inherent with the history of ideas, both having antecedents in natural law and in Roman law.

It is clear that the modem international law of human rights is a post Second World War phenomenon. Human rights is a subject of contemporary international law and the efforts to regulate human rights at an international level only gained momentum after Second World War. The aftermath of the Second World War witnessed serious efforts of individuals in different parts of the world, to preserve and protect human rights through codification and global institutions. The genesis of the deep international concern for human rights can be traced to the creation of functional institutions at the global level.

Whatever the theoretical or doctrinal debates over the basis for the English, American and

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French Revolutions, it is clear that each, in its own way, contributed towards the development of forms of liberal democracy, in which certain rights were regarded as paramount in protecting individuals from the States in built tendency to authoritarianism. What was significance about the protected rights was that, they were individualistic and liberation in character, they were predominantly 'freedom from' rather than 'rights to. In modem parlance, these would be called Civil and Political Rights, since they dealt primarily with an individual's relationship to the organ of the State. The American Declaration of Independence, 1776, the Virginia Declaration of Rights, 1776 and the American Bill of Rights, 1791 carried not only the ideas of the earlier English Documents, but in some cases their very text as well. The French Declaration of the Rights of Man and of the Citizens, 1789 was directly inspired by earlier American examples.

According to the French revolutionary slogan, Liberty, Equality and Fraternity, 'Karal Vasak' has sought to classify the historical development of human rights. Each of these corresponds, more or less, to the development to distinct categories or generations of rights. Liberty or First Generation Rights are represented by Civil and Political Rights i.e., the right of individual to be free from arbitrary interference by the State.

Equality or Second Generation Rights correspond to the protection of Economic, Social and Cultural Rights i.e., the right to the creation of the conditions by the State which will allow every individual to develop by the maximum potential. Fraternity or Third Generation Rights or Rights of Solidarity are the newest and most controversial category of rights. These are asserted by developing States which wish to see the creation of an international, legal and economic order that will guarantee the right to development, to disaster relief assistance to peace and to a good environment.

The above efforts for the recognition of the basic freedom of the individual are inadequate and unsatisfactory, unless they are incorporated in and safeguarded by the international society in extending their support for due recognition and adequate protection against the authority of the State. In India, Human Rights are the basic rights that every individual should have to live in a peaceful environment. From the ancient period as described in the Rig Veda, Manu Smriti, even in Jainism and Buddhism religion, followed humanitarian theory. In medieval period Muslim rulers adopted the human right policy for the effective functioning of the state.

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